

Appln. No.: 09/704,864

Amdt. Dated November 17, 2003

Reply to Office Action dated October 3, 2003

**Remarks/Arguments**

Reconsideration of this application is requested.

Claims 1-19 have been rejected by the Examiner under 35 USC §102(b) as being anticipated by Stefik, et al. (U.S. Patent No. 5,638,443).

Stefik discloses the following in his abstract:

"A system for controlling use and distribution of composite digital works. A digital work is comprised of a description part and a content part. The description part contains control information for the composite digital work. The content part stores the actual digital data comprising the composite digital work. The description part is logically organized in an acyclic structure, e.g. a tree structure. For a composite digital work each node of the acyclic structure represents an individual digital work or some distribution interest in the composite digital work. A node in the acyclic structure is comprised of an identifier of the individual work, usage rights for the individual digital work and a pointer to the digital work. Composite digital works are stored in repositories. A repository has two primary operating modes, a server mode and a requester mode. When operating in a server mode, the repository is responding to requests to access digital works. When operating in requester mode, the repository is requesting access to a digital work. A repository will process each request to access a composite digital work by examining the usage rights for each individual digital work found in the description part of the composite digital work."

Stefik discloses the following in lines 1-31 of column 4:

"A digital work is comprised of a description part and a content part. The description part contains control information for the composite digital work. The content part stores the actual digital data comprising the composite digital work. The description part is logically organized in an acyclic structure (e.g. a tree structure.) For a composite digital work each node of the acyclic structure represents an individual digital work or some distribution interest in the digital work. A node in the acyclic structure is comprised of an identifier of the individual work, usage rights for the individual digital work and a pointer to the digital work. In this representation, the description part may naturally be stored separately on a separate medium from the content part.

Composite digital works are stored in repositories. A repository is comprised of a storage means for storing a digital work and its attached usage rights, an

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external interface for receiving and transmitting data, a processor and a clock. A repository has two primary operating modes, a server mode and a requester mode. When operating in a server mode, the repository is responding to requests to access digital works. When operating in requester mode, the repository is requesting access to a digital work. A repository will process each request to access a composite digital work by examining the usage rights for each individual digital work found in the description part. Access is granted if the composite digital work if access to each of the individual digital works can be granted. [sic] Alternatively, if access to all the individual digital works cannot be granted, partial access can be granted only to those individual digital works which grant access."

Stefik discloses the following in lines 34-48 of column 6:

"In any event, Repository 1 checks the usage rights associated with the digital work to determine if the access to the digital work may be granted, step 105. The check of the usage rights essentially involves a determination of whether a right associated with the access request has been attached to the digital work and if all conditions associated with the right are satisfied. If the access is denied, repository 1 terminates the session with an error message, step 106. If access is granted, repository 1 transmits the digital work to repository 2, step 107. Once the digital work has been transmitted to repository 2, repository 1 and 2 each generate billing information for the access which is transmitted to a credit server, step 108. Such double billing reporting is done to insure against attempts to circumvent the billing process."

No archival copy is made between Stefik's steps 107 and 108 of Fig. 1. If Stefik's repository 1 fails and Stefik's repository 2 fails, the user is unable to obtain an archival copy of the material they previously purchased. Furthermore, there is a chance that a copy of the protected material will be in repository 1 or repository 2. However, the possibility exists that there would not be a copy of the protected material when the consumer wants an archival copy of material for which the consumer has previously paid.

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Stefik does not disclose or anticipate automatically making an archival copy of the protected material at a site remote from the consumer. The foregoing is claimed in steps c) and d) of claim 1, which read as follows:

c) determining whether or not there is an existing copy of the protected material;

d) storing an existing copy of the protected material automatically for archival purposes at a site remote from the consumer at the time the material was first obtained by the consumer.

Steps c) and d) provide for the situation when the site that sold the digital rights protected content stops vending the material for any reason, and the digital rights protected material on the consumer's computer is lost or damage, i.e., theft of the consumer's computer, damage to the computer, or computer storage medium, computer crashes, etc., the consumer will be able to obtain an archival copy of the material. This is unlike other back up technology in that it happens automatically at a remote site at the time the material was first obtained by the consumer.

Furthermore, Stefik does not disclose step e) of claim 1, namely: e) creating a pointer for the consumer to point to the stored archival material.

Applicants' pointer does not point to the digital work. Applicants' pointer points to the stored archival material.

Stefik also does not disclose or anticipate step b) of claim 19. Step b) of claim 19 reads as follows: b) an archive coupled to the clearinghouse that automatically backs up content represented by the transactions at the time the content was first purchased.

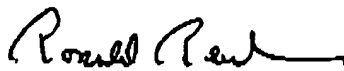
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In view of the above, claims 1 1-9, are patentable. If the Examiner has any questions, would he please call the undersigned at the telephone number noted below.

Respectfully submitted,



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